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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
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11 AT&T MOBILITY LLC (formerly known
12 as CINGULAR WIRELESS LLC), a
13 Delaware Limited Liability Company,

14 Plaintiff,

15 v.

16 CONNECT WIRELESS,

17 Defendant.
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Case No. C07-00463 MMC

Honorable Maxine M. Chesney
Courtroom: 7

**~~[PROPOSED]~~ ORDER RE
APPLICATION FOR DEFAULT
JUDGMENT BY COURT AGAINST
DEFENDANT CONNECT
WIRELESS**

Date: November 16, 2007
Time: 9:00 a.m.

1 **I. RELIEF SOUGHT**

2 Plaintiff AT&T Mobility LLC (formerly known as Cingular Wireless
3 LLC) ("Cingular") has requested that this Court enter judgment by default against
4 defendant Connect Wireless ("Defendant"). On January 23, 2007, Cingular filed the
5 instant lawsuit for trademark infringement against Defendant on the basis that
6 Defendant refuses to desist from infringing Cingular's trademarks, service marks and
7 logos (the "Cingular Marks"), and from falsely holding itself out to the consuming
8 public as an authorized Cingular dealer. Defendant has not responded to Cingular's
9 Complaint to date. Nor has it otherwise appeared in any capacity in this action. On
10 May 25, 2007, this Court granted a motion for preliminary injunction brought by
11 Cingular, and ordered that Defendant be enjoined from infringing the Cingular Marks.
12 Default was entered by the Clerk of this Court against Defendant on September 6,
13 2007. Now, Cingular has requested that the Court enter a judgment by default against
14 Defendant and permanently enjoin Defendant from infringing the Cingular Marks, as
15 such relief is consistent with the relief prayed for in the Complaint.

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17 **II. STATEMENT OF RATIONALE OF DECISION**

18 Federal Rule of Civil Procedure 55(b)(2) requires that applications for
19 default judgment set forth the following information: (1) when and against which
20 party the default is entered; (2) the identification of the pleadings to which default is
21 entered; (3) whether the defaulting party is an infant or incompetent person; (4) that
22 the Soldiers' and Sailors' Civil Relief Act of 1940 does not apply; and (5) notice of
23 the application has been served on the defaulting party where the defaulting party has
24 appeared in the action. Cingular has met all of the statutory requirements allowing for
25 default judgment.

1 **III. ORDER**

2 Federal Rule of Civil Procedure 54(c) provides that a judgment by
 3 default shall be consistent with that prayed for in the Complaint. On reading the
 4 Complaint, Notice of Application and Application for Default Judgment by Court
 5 against Defendant, and the Memorandum of Points and Authorities and Declarations
 6 and Exhibits filed in support thereof, it appears to the satisfaction of the Court that the
 7 Judgment herein requested by Cingular is in accordance with Cingular's Complaint.
 8 Accordingly, Cingular is entitled to judgment against Defendant for relief as follows:

9 1. That Defendant, and all of its agents, servants, employees, officers
 10 and attorneys, and all other persons acting in concert or participation with Defendant,
 11 be forthwith permanently enjoined from engaging in the following conduct:

12 a) Advertising, promoting, marketing, selling, or offering to
 13 sell any product or service in any way using or employing any of the Cingular Marks
 14 or any confusingly similar names or marks;

15 b) Using or employing any of the Cingular Marks in any
 16 manner, including in any advertisement, promotion, or marketing efforts, including on
 17 web sites;

18 c) Claiming any authorization or sponsorship or affiliation with
 19 Cingular including particularly claiming to be an authorized Cingular dealer, and from
 20 doing any business whatsoever under the names ~~Cingular~~ or ~~Cingular~~, or any
 21 confusingly similar names;

22 d) Offering Cingular personal communication services and/or
 23 attempting to activate any Cingular personal communication services under any name;


24 e) Using any Cingular agent codes; and

25 f) Using Cingular advertising and promotional materials,
 26 banners, signs, store displays, brochures, business cards, contracts, preprinted forms,
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1 and any and all other Cingular materials in defendant's possession or control.
2 ~~Defendant should also be ordered to return all such material to Cingular.~~

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4 IT IS SO ORDERED.

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6 DATED: November 1, 2007


The Honorable Maxine M. Chesney
United States District Court